

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

WILLIAM BARONA ASTAIZA,

Defendant.

16-CR-661-2 (ARR)

NOT FOR ELECTRONIC
OR PRINT PUBLICATION


OPINION & ORDER

ROSS, United States District Judge:

Before me is William Barona Astaiza's motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2), U.S.S.G. § 1B1.10, and Amendment 821 to the United States Sentencing Guidelines. For the reasons stated below, I DENY his motion.

BACKGROUND

In May 2019, Mr. Barona Astaiza pleaded guilty to international cocaine distribution conspiracy in violation of 21 U.S.C. §§ 963 and 960(b)(B)(ii). ECF No. 90. At the time I originally sentenced him, he had an offense level of 44 and a criminal history category of I (zero criminal history points), corresponding to an advisory guideline range of life imprisonment. *See* Presentence Investigation Report ¶¶ 36, 39, 68, ECF No. 139. This offense level calculation included a three-point aggravating role enhancement pursuant to U.S.S.G. § 3B1.1 given the defendant's role as a manager of a criminal activity involving five or more participants. *Id.* ¶ 30. Mr. Barona Astaiza agreed to the inclusion of this enhancement. Opp'n Mot. Reduce Sentence, Ex. 1 ¶ 2 ("Govt.'s Opp'n"), ECF No. 187 ("The defendant further stipulates to the following Guidelines calculations: . . . a three-level increase, U.S.S.G. § 3B1.1(b), for a managerial role.").



On April 26, 2021, I sentenced Mr. Barona Astaiza to 101 months' imprisonment, taking into account [REDACTED] his managerial role [REDACTED]. ECF No. 173; Govt's Opp'n, Ex. 3 at 8:4-6, 12:3-11, 13:11-14:10. He is expected to be released on August 2, 2024. *See* Mot. Reduce Sentence 1, ECF No. 183; Govt's Opp'n 4.

Mr. Barona Astaiza moved for a sentence reduction on January 24, 2024. ECF No. 183. The government filed its opposition on February 7, 2024. ECF No. 187. Mr. Barona Astaiza did not file any reply.

DISCUSSION

Amendment 821, as relevant here, added U.S.S.G. § 4C1.1, which provides a two-point offense level reduction for certain defendants who have no criminal history points under Chapter Four, Part A, of the Guidelines. Pursuant to U.S.S.G. § 1B1.10(b)(1), “[i]n determining whether, and to what extent, a reduction in the defendant’s term of imprisonment . . . is warranted” pursuant to Amendment 821, I must “determine the amended guideline range that would have been applicable to the defendant if” Amendment 821 “had been in effect at the time the defendant was sentenced.” [REDACTED]

[REDACTED] To be eligible
for a reduction under Amendment 821, a defendant must meet certain criteria, including that he
“did not receive an adjustment under § 3B1.1 (Aggravating Role) and was not engaged in a
continuing criminal enterprise, as defined in 21 U.S.C. [§] 848.” U.S.S.G. § 4C1.1(a)(10).

Mr. Barona Astaiza urges me to exercise my discretion to reduce his sentence because a two-point reduction would bring his total offense level to 42. Mot. Reduce Sentence 3. I am unable to do so: Mr. Barona Astaiza is ineligible for a reduction under § 4C1.1(a)(10) because he received a managerial role adjustment under § 3B1.1. *See* Presentence Investigation Report ¶ 30; Govt’s Opp’n, Ex. 1 ¶ 2. The fact that he was not engaged in a continuing criminal enterprise, *see generally* Redacted Superseding Indictment, ECF No. 14, is of no consequence: § 4C1.1(a) states that a defendant must meet “all of the following criteria” to be eligible for a sentence reduction, and a lack of an adjustment under § 3B1.1 is one of those criteria. Courts interpreting this provision have concluded, as do I, that § 4C1.1(a) precludes a sentence reduction for a defendant who, although not engaged in a continuing criminal enterprise, nonetheless received an adjustment under § 3B1.1. *United States v. Urias-Aviles*, No. 15-CR-10152, 2024 WL 626165, at *2 (D. Kan. Feb. 14, 2024); *United States v. Diaz-Pellegaud*, No. 09-CR-40029, 2024 WL 417105, at *2 (D.S.D. Feb. 5, 2024); *United States v. Castaneda Mendez*, No. 20-CR-20155, 2024 WL 216277, at *3 (S.D. Fla. Jan. 18, 2024); *United States v. Gordon*, No. 19-CR-00007, 2023 WL 8601494, at *3 (D. Me. Dec. 12, 2023). I accordingly DENY Mr. Barona Astaiza’s motion for a sentence reduction.

SO ORDERED.

/s/
Allyne R. Ross
United States District Judge

Dated: March 7, 2024
Brooklyn, New York